IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

OP. No. 31741 of 2001(D)

PETITIONER:

MANICKAM ENTERPRISES, BRANCH OFFICE,
ASRAMAM SOUTH WARD VII,
937/776, KOLLAM-2, A PARTNERSHIP FIRM, REPRESENTED
BY ITS PARTNER, SRI.M.MADHAVAN.

BY ADV. SRI.K.SRIKUMAR
SRI.R.D.GANESAN

RESPONDENTS:
---

1. THE ASSISTANT COMMISSIONER (ASSMT), COMMERCIAL TAXES, SPECIAL CIRCLE -IV, KOLLAM.

2. THE DEPUTY COMMISSIONER, COMMERCIAL TAXES, KOLLAM.

BY GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NOS. 52573/2001 & 10090/2002 IN OP NO.31741/2001

DISMISSED.

20.3.2007. SD/-K.BALAKRISHNAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXTS.

EXT.P1 - TRUE COPY OF THE ORDER OF ASSESSMENT FOR THE YEAR 1995-96 DT. 23.10.97 ISSUED BY THE 1ST RESPONDENT.

EXT.P2 - TRUE COPY OF NOTICE IN FORM NO.50 DATED 5.11.98 ISSUED BY THE 1ST RESPONDENT.

EXT.P2(a) – TRUE COPY OF ENGLISH TRANSLATION OF EXT.P2

EXT.P3 - TRUE COPY OF THE WRITTEN SUBMISSION DATED 27.11.98 FILED BY THE PETITIONER.

EXT.P4 - TRUE COPY OF THE NOTICE DT. 4.10.2001 ISSUED BY THE 2ND RESPONDENT.

EXT.P5 - TRUE COPY OF REPLY DATED 12.10.2001 FILED BY THE PETITIONER.

EXT.P6 - TRUE COPY OF THE LETTER DT. 18.10.2001 FILED BY THE PETITIONER.

EXT.P7 - TRUE COPY OF THE ORDER DT. 18.10.2001 ISSUED BY THE 2ND RESPONDENT.

/TRUE COPY/

K.BALAKRISHNAN NAIR, J.

O.P. NO. 31741 OF 2001-D

JUDGMENT

The petitioner has approached this Court, challenging Exts.P2 and P4 notices issued under Section 35 of the K.G.S.T. Act. During the pendency of the O.P., Ext.P7 final order was passed under the said Section. So, the O.P was amended, challenging Ext.P7 also. Against Ext.P7, the petitioner has a statutory remedy of filing an appeal before the Tribunal. In view of the said statutory remedy, it is unnecessary for this Court to consider the validity of Ext.P7 on merits. If the petitioner files the appeal within one month from today, the period this O.P was pending before this Court shall be excluded, while computing the period of limitation, if any, in invoking the appellate remedy. The interim order granted by this Court will remain in force for a period of two months from today.

The Writ Petition is disposed of as above.

20th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/

K.BALAKRISHNAN NAIR,J.

O.P. NO.31741/2001-D

JUDGMENT

20.03.2007